

**§ 15A-1369.3. Procedure for medical release.**

(a) The Commission shall consider an inmate for medical release upon referral by the Department. The Department may base its referral upon either a request or petition for release filed by the inmate, the inmate's attorney, or the inmate's next of kin or upon a recommendation from within the Department.

(b) The referral shall include an assessment of the inmate's medical and psychosocial condition and the risk the inmate poses to society, as follows:

- (1) The Department medical director, or a designee of the director who is a licensed physician, shall review the case of each inmate who meets the eligibility requirements for medical release set forth in G.S. 15A-1369.2. Any physician who examines an inmate being considered for medical release shall prepare a written diagnosis that includes:
  - a. A description of any and all terminal conditions, physical incapacities, and chronic conditions; and
  - b. A prognosis concerning the likelihood of recovery from any and all terminal conditions, physical incapacities, and chronic conditions.
- (2) The Department shall make an assessment of the risk for violence and recidivism that the inmate poses to society. In order to make this assessment, the Department may consider such factors as the inmate's medical condition, the severity of the offense for which the inmate is incarcerated, the inmate's prison record, and the release plan.

(c) If the Department determines that the inmate meets the criteria for release, the Department shall forward its referral and medical release plan for the inmate to the Commission. The Department shall complete the risk assessment and forward its referral and medical release plan within 45 days of receiving a request, petition, or recommendation for release.

(d) The Commission shall make a determination of whether to grant medical release within 15 days of receiving a referral from the Department for release of a terminally ill inmate and within 20 days of receiving a referral from the Department for release of a permanently and totally disabled inmate or a geriatric inmate. In making the determination, the Commission shall make an independent assessment of the risk for violence and recidivism that the inmate poses to society. The Commission also shall provide the victim or victims of the inmate or the victims' family or families with an opportunity to be heard.

(e) A denial of medical release by the Commission shall not affect an inmate's eligibility for any other form of parole or release under applicable law.

(f) If the Department determines that an inmate should not be considered for release under this Article or the Commission denies medical release under this Article, the inmate may not reapply or be reconsidered unless there is a demonstrated change in the inmate's medical condition. (2008-2, s. 1.)